

ShelfX Account Holder Terms of Service Agreement

These Terms of Service ("Terms of Service") constitute your agreement with ShelfX, Inc. and any of its affiliated entities ("ShelfX" or "we" or "us" or "our") with respect to loading funds onto your ShelfX™ account and using your ShelfX account and ShelfX Xcard™ to make purchases from ShelfX system merchants. By creating a new ShelfX account, you agree to these Terms of Service. All information and other documents linked to or referenced in these Terms of Service are a part of these Terms of Service.

Introduction

Your ShelfX account and associated Xcard or other compatible identification device can be used to make purchases from merchants that use ShelfX equipment. To get started, visit www.xcard.me and follow the instructions there to create a new ShelfX account. You will be asked to select a password for future online access to your account and you may also choose a PIN which can be used at ShelfX kiosks. You are solely responsible for the security and safekeeping of your ShelfX Xcard and your account password and PIN. You should not write or keep your PIN with your card. Never share your password or PIN with anyone.

After you have opened a ShelfX account, you will be furnished an Xcard either by ShelfX or a participating merchant.

Loading Account

To purchase items with the ShelfX Xcard, you must first fund your account by purchasing credits with your credit or debit card in accordance with the instructions found at www.xcard.me. Purchase credit will be added to your account after your credit or debit card purchase has been verified and confirmed. All purchases of credits are subject to verification which may delay your access to your funds. You acknowledge and agree that the value available in your ShelfX account is limited to the funds that you have loaded onto the ShelfX account less any purchase made using the account.

You may elect to use the ShelfX auto-load feature with your account. If you authorize auto-load on your ShelfX account, ShelfX will have the ability to charge the credit or debit card you provide by your pre-authorized amount when your account balance goes below the threshold you set for your ShelfX account. You will have the ability to deactivate auto-load at any time by accessing your account at www.xcard.me. If you authorize the auto-load feature, you agree that you have given ShelfX the authority to reload your ShelfX account and to charge your specified credit or debit card as provided in your authorization.

Charges to the Account

When you use your ShelfX Xcard to purchase items, your account will be charged based on the purchase price of the item plus any applicable sales and other taxes. Each time you use your ShelfX Xcard, you authorize us to reduce the value available in your ShelfX account by the amount of the transaction. If you exceed the available amount in your ShelfX account through an individual transaction or a series of transactions and you have the auto-load feature turned on, then ShelfX will charge your credit or debit card on file to replenish your account. If you do not use auto-load, ShelfX is not obligated to authorize transactions in excess of your account balance but may do so at its discretion. Your credit or debit card on file may be charged the amount by which your account balance goes negative as a consequence of any individual transaction or series of transactions. In any case, if a transaction(s) exceeds the balance of the funds available in your ShelfX account, you shall remain fully liable to us for the amount of the transaction(s). You do not have the right to stop payment on any purchase transaction originated by use of your ShelfX Xcard.

The ShelfX Xcard is not a credit card. It may be used only to purchase goods from ShelfX system equipment at ShelfX system merchants. The amounts in your ShelfX account cannot be redeemed for cash. The ShelfX Xcard is not for resale. You will not receive any interest on funds in your ShelfX account. The ShelfX Xcard will remain the property of ShelfX and must be surrendered upon demand. The ShelfX account and Xcard are nontransferable and your account may be canceled or closed at any time without prior notice subject to applicable law.

Virtual Cart

ShelfX merchant locations can optionally be set up to use a virtual cart mode of operation. When using a virtual cart, you can pick up items for purchase at a ShelfX merchant and the charges for the items will automatically accumulate in a virtual shopping cart associated with your ShelfX account. When you are ready to check out, you will pay for the items by going to a ShelfX kiosk and selecting a credit or debit card that is already associated with your ShelfX account or by swiping another credit or debit card at the kiosk. You hereby authorize all charges to your credit or debit card for your purchases made using the virtual cart.

Authorization of Household Members

You may add other members of your household as authorized users of your ShelfX account and obtain ShelfX Xcards for those users. You may authorize additional users and remove users that you previously authorized by accessing your account at www.xcard.me. The primary account holder is responsible for ensuring that all users adhere to these Terms of Service. The primary account holder is responsible for all purchases made by other users of the ShelfX account and with the Xcards assigned to the account.

Charges Made In Foreign Currencies

If you load your account or make a purchase in a currency other than the currency in which your ShelfX account was issued, the amount deducted from your funds will be converted into an amount in the home currency of your ShelfX account. The exchange rate between the transaction currency and the billing currency used for processing international transactions will be selected by ShelfX from the range of rates available in wholesale currency markets for the applicable processing date, which may vary from the rate ShelfX itself receives or the government-mandated rate in effect for the applicable central processing date. If you load your account or make a purchase in a currency other than the currency in which your ShelfX account was issued, ShelfX may assess a foreign currency conversion fee for each transaction amount and will retain this amount as compensation for its services.

Balances and Transaction Records

You may obtain information on the current balance of your ShelfX account and transactions over the last 60 days made using your ShelfX Xcard by logging into your account at www.xcard.me. You will not receive any account or billing information by mail. It is your responsibility to check your account online.

Inactivity Charge

ShelfX will deduct a \$5 per month inactivity charge on all ShelfX accounts after twelve (12) consecutive months of inactivity until the balance reaches zero. The amount of the inactivity charge is subject to change by ShelfX without prior notice.

Purchase Disputes

No refunds or credits shall be given on your ShelfX account for any purchases, disputes, or errors. If you have a problem or dispute with a purchase or transaction made with your ShelfX Xcard or on your ShelfX account, you must handle it directly with the merchant. You may be able to receive a refund or credit from the merchant, but that will depend entirely on the merchant's refund or credit policies.

Card Replacement

If you need to replace your ShelfX Xcard for any reason, please contact us at 1-855-4-SHELFX (855-474-3539) to request a replacement card. You will be required to provide personal information which may include your account number, Xcard number, full name, transaction history, etc. There may be a fee for replacing your Xcard.

Closing your ShelfX Account

If you wish to close your ShelfX account for any reason, please contact us at 1-855-4-SHELFX (855-474-3539) to request account closure. Any unused account balance will be refunded to you.

Customer Service

Please call 1-855-4-SHELFX (855-474-3539) for customer service.

Fraudulent Use

If ShelfX reasonably suspects fraudulent, illegal or other use in violation of these Terms of Service, your ShelfX account may be suspended or terminated without notice. Any funds loaded onto your ShelfX account are not refundable.

Unauthorized Use/Stolen ShelfX Card or Account Information

You are responsible for all charges to your account. If your ShelfX Xcard, PIN number or account information is stolen or if you become aware of unauthorized use of your ShelfX Xcard, PIN number or account, you must notify us immediately to suspend the account and/or Xcard. Contact us at once by telephone at 1-855-4-SHELFX (855-474-3539). You are responsible for all charges to your account until the ShelfX account is suspended.

Intellectual Property

"Xcard.me", "ShelfX.com", "ShelfX", and all logos related to the ShelfX Xcard and ShelfX services are either trademarks or registered trademarks of ShelfX or its licensors. You may not copy, imitate or use them without ShelfX's prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of ShelfX or its licensors. You may not copy, imitate, or use them without our prior written consent. All right, title and interest in and to the ShelfX website, any content thereon, the ShelfX services, the technology related to the ShelfX services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of ShelfX and its licensors.

Assignment

You may not transfer or assign any rights or obligations you have under these Terms of Service without ShelfX's prior written consent. ShelfX reserves the right to transfer or assign these Terms of Service any right or obligation under these Terms of Service at any time.

No Warranties

THE SHELFX ACCOUNT, SHELFX XCARD AND ALL SERVICES RELATED TO THEM ARE PROVIDED "AS IS." SHELFX DOES NOT MAKE ANY EXPRESS WARRANTY REGARDING THE SHELFX ACCOUNT, SHELFX XCARD, THE SHELFX SYSTEM EQUIPMENT, OR THE SERVICES PROVIDED BY SHELFX, AND SHELFX DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, AVAILABILITY, RELIABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. SHELFX MAKES NO WARRANTIES AND HAS NO LIABILITIES WHATSOEVER RELATED TO ANY ITEMS PURCHASED USING THE SHELFX ACCOUNT OR SHELFX XCARD.

Limitation of Liability

ShelfX is not liable for: acts or omissions of any third party (including merchants), information provided by you or provided to you by anyone other than ShelfX, equipment failure, or defects or errors in or damage or harm caused by goods or services, or causes beyond ShelfX's reasonable control. ShelfX is not liable for service outages or for service limitations or interruptions. ShelfX is not liable for any accidents or incidents which result from the use of the ShelfX account, ShelfX Xcard or items purchased using them. The total liability of ShelfX and its vendors and licensors for any claims arising from or related to any transaction shall in no event exceed the amount paid by you in the particular transaction for which the liability relates. ShelfX, and its vendors and licensors are not liable for any incidental, indirect, special, punitive, exemplary, or consequential damages of any kind. This paragraph shall survive termination of the Terms of Service.

Indemnity

You agree to indemnify and hold ShelfX, its vendors and licensees, and their subsidiaries, affiliates, officers, agents or other partners, and employees, harmless from any claim or demand, including without limitation attorneys' fees, made by any third party due to or arising out of your (a) use of the ShelfX account or ShelfX Xcard; (b) violation of the Terms of Service, or (c) violation of the rights of any third-party.

Governing Law

The law of the state of Colorado will govern your use of our services under these Terms of Service as well as the relationship between you and us.

No Waiver of Rights

Our failure to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of the right or provision. ShelfX reserves all of its rights at law and equity to proceed against anyone who uses its services illegally or improperly. All determinations by ShelfX under these Terms of Service and exercise of its rights are made and done in our sole and absolute discretion. ShelfX reserves all of its rights at law and equity to proceed against anyone who uses its services illegally or improperly.

Survival

The provisions of these Terms of Service that by their sense and context are intended to survive the termination or expiration of these Terms of Service shall survive.

Dispute Resolution and Binding Arbitration

YOU EXPRESSLY AGREE THAT ANY LEGAL CLAIM, DISPUTE OR OTHER CONTROVERSY BETWEEN YOU AND SHELFX ARISING OUT OF OR OTHERWISE RELATING IN ANY WAY TO THESE TERMS OF SERVICE OR YOUR USE OF THE SHELFX ACCOUNT, SHELFX XCARD OR SERVICES, INCLUDING CONTROVERSIES RELATING TO THE APPLICABILITY, ENFORCEABILITY OR VALIDITY OF ANY PROVISION OF THESE TERMS OF SERVICE (COLLECTIVELY “DISPUTES”), SHALL BE RESOLVED IN CONFIDENTIAL BINDING ARBITRATION CONDUCTED BEFORE ONE COMMERCIAL ARBITRATOR FROM THE AMERICAN ARBITRATION ASSOCIATION (“AAA”), RATHER THAN IN A COURT, AS DESCRIBED HEREIN. THE ARBITRATION WILL BE GOVERNED BY THE AAA’S COMMERCIAL ARBITRATION RULES AND, IF THE ARBITRATOR DEEMS THEM APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES (COLLECTIVELY “RULES AND PROCEDURES”). YOU SPECIFICALLY AGREE THAT YOU ARE BOUND TO RESOLVE ALL DISPUTES IN ARBITRATION, AND YOU ACKNOWLEDGE THAT YOU ARE VOLUNTARILY AND KNOWINGLY FORFEITING YOUR RIGHT TO A TRIAL BY JURY AND TO OTHERWISE PROCEED IN A LAWSUIT IN STATE OR FEDERAL COURT. Payment of arbitration costs will be governed by the AAA’s fee schedule, unless you are able to show that your portion will be prohibitive as compared to litigation costs, in which case ShelfX will pay as much of your arbitration costs as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to litigation costs. ShelfX also reserves the right in its sole and exclusive discretion to assume responsibility for all arbitration costs imposed by the AAA. Each party agrees to pay its own attorneys’ fees and expenses unless there is a governing statutory provision that requires the prevailing party to be paid attorneys’ fees and expenses. You and ShelfX further agree that (i) for any claim of damages of less than \$5,000, the arbitration shall be conducted solely based on written submissions or, if the arbitrator deems it appropriate, a telephonic hearing; and (ii) for claims of damages of \$5,000 or greater, the arbitration shall be conducted solely based on written submissions and a telephonic hearing, unless the arbitrator deems a face-to-face hearing is appropriate, in which case one shall be held in Denver, Colorado, unless all parties to the arbitration mutually agree to a different location.

Notwithstanding the foregoing, to the extent the Dispute arises from a violation of ShelfX’s intellectual property rights in any manner, both parties agree that ShelfX may seek injunctive remedies (or an equivalent type of urgent legal relief) in a state or federal court consistent with the “Governing Law” section above, and both parties consent to exclusive jurisdiction and venue in such courts.

Changes to These Terms of Use

We may change the terms and conditions of these Terms of Service from time to time. By using our service, you agree that we may provide to you by use of electronic communications required notices, agreements, and other information concerning ShelfX, including changes to these Terms of Service. We may give you notice of a change by posting the change on the home page of www.xcard.me, on your account web page or by e-mail, on the relevant web page of the applicable service, or by other communication. Such notices will be considered given and effective on the date posted. These changes will become binding on you on the date they are posted, and we are not required to give you further notice in order for you to continue using our service. By continuing to use the service after revisions are in effect, you accept and agree to all revisions. If you do not agree to the changes, you must terminate your service immediately. When posted, the changes to these Terms of Service supersede all previously agreed to electronic and written terms of service. If you want to withdraw your consent to receive notices electronically, you must discontinue your use of ShelfX services. If you continue to use our service, we will consider this your acceptance of any changes.

Entire Agreement

These Terms of Service represent the entire agreement between you and us and supersedes all prior offers, contracts, agreements and representations. The Terms of Service supersede all promises made to you by our client services agents, representatives or employees. If any part of the Terms of Service is found invalid, the remainder remains enforceable.